

1
2
3
4
5
6 BOSTON TELECOMMUNICATIONS
7 GROUP INC., et al.,
8

9 No. C 02-05971 JSW
10 Plaintiffs,
11 v.
12 ROBERT WOOD,
13 Defendant.

14 _____ /
15
16 **NOTICE OF TENTATIVE
17 RULING AND QUESTIONS FOR
18 HEARING**

19 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD, PLEASE TAKE
20 NOTICE OF THE FOLLOWING QUESTIONS FOR THE HEARING SCHEDULED ON
21 APRIL 18, 2008, AT 9:00 A.M.:

22 The Court has reviewed the parties' memoranda of points and authorities and, thus, does
23 not wish to hear the parties reargue matters addressed in those pleadings. If the parties intend to
24 rely on legal authorities not cited in their briefs, they are ORDERED to notify the Court and
25 opposing counsel of these authorities reasonably in advance of the hearing and to make copies
26 available at the hearing. If the parties submit such additional authorities, they are ORDERED
to submit the citations to the authorities only, with pin cites and without argument or additional
briefing. *Cf.* N.D. Civil Local Rule 7-3(d). The parties will be given the opportunity at oral
argument to explain their reliance on such authority.

27 //
28

United States District Court

For the Northern District of California

1 The Court **tentatively sustains Wood's objections** to the Supplemental Marshall
2 Declaration, except to the extent it identifies persons with knowledge relevant to this litigation.
3 The Court **tentatively grants** Wood's motion to dismiss.

4 Each party shall have (20) minutes to address the following questions:

- 5 1. Apart from the reference to the State Department website, Plaintiffs evidence
6 regarding the inadequacy of the Slovak Republic as an adequate alternate forum
7 pertains to his personal difficulties. Does Plaintiff have any additional authority
8 to suggest that this is a sufficient basis on which to conclude it does not
9 constitute an adequate alternate forum? *See, e.g., Mercier v. Sheraton Int'l, Inc.*,
10 981 F.2d 1345, 1351 n.2 (1st Cir. 1992); *cf. Tennecal Funding Corp. v. Sakura*
11 *Bank*, 87 F.3d 1322 (9th Cir. June 19, 1996) (unpublished opinion citing *Mercier*
12 favorably).
- 13 2. Wood argues that it will be impossible to litigate all of Plaintiffs' claims in this
14 forum because the Deloitte Defendants are not subject to the Court's jurisdiction.
15 Given the Court's finding, affirmed by the Court of Appeals, that Wood did not
16 act as the Deloitte Defendants' agent, what relevance, if any, do the Deloitte
17 Defendants have to the Plaintiffs' claims or Wood's defenses?
- 18 a. What is the importance or materiality of the Deloitte Defendant's
19 corporate structure? (*See* Svirha Declaration, Ex. A (Plaintiffs' Initial
20 Disclosures at 5.)
- 21 b. What is the importance or materiality of Mr. Marshall's business
22 practices to this litigation? (*See* Docket 95 (Wood Declaration) ¶ 9.)
- 23 3. Defendant asserts that witnesses located abroad cannot be compelled to testify in
24 this forum. Plaintiff identifies certain witnesses who may work or reside within
25 the United States or Canada. Can those witnesses be compelled to testify in the
26 Slovak Republic?
- 27 4. Do Plaintiffs contend that Wood's initial disclosures contain new information
28 that would impact the Court's analysis of any of the private or public interest
factors?
- 29 5. Are there any other issues the parties wish to address?

30 Dated: April 17, 2008

31 
32 JEFFREY S. WHITE
33 UNITED STATES DISTRICT JUDGE